

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

IN RE:)	
)	
DAINON TARQUINIUS SIDNEY)	Case No.: 3:10-bk-01333
)	Chapter 13
Debtor.)	Judge Harrison
_____)	
)	
COMMUNITY FIRST BANK & TRUST,)	
)	
Movant,)	
)	
)	
DAINON TARQUINIUS SIDNEY,)	
and HENRY EDWARD HILDEBRAND, III,)	
Chapter 13 Trustee)	
)	
Respondents.)	

MOTION FOR RELIEF FROM THE STAY

Community First Bank & Trust, (hereinafter "Movant"), by and through its attorneys, respectfully requests that the Court grant it relief from the automatic stay provisions of 11 U.S.C. § 362 and abandonment pursuant to 11 U.S.C. § 554(b). In support of this Motion, the Movant states as follows:

1. Dainon Tarquinius Sidney (hereinafter the "Debtor") commenced this bankruptcy case by filing a Petition under Chapter 13 of the U.S. Bankruptcy Code in this Court on February 10, 2010.

2. Movant is a secured creditor of Debtor in the amount of \$490,666.88, which represents the amounts owed under a *Note* dated February 7, 2008 of Daymar Homes, Inc. (the "Note"), guaranteed by Debtor and secured by a grant by Debtor pursuant to a February 7, 2008 *Commercial Pledge Agreement* granting Movant a security interest in certain shares of stock, more particularly described as 1,000 Shares of Community First Bank & Trust, Certificate # 7660 and

1,667 Shares of Community First Bank & Trust, Certificate # 8027 (the "Collateral"). A copy of the February 7, 2008 *Commercial Pledge Agreement* is attached as **Exhibit 1**.

3. In his confirmed Chapter 13 Plan, Debtor does not propose to pay for the Collateral.

4. Movant believes that the value of the Collateral is less than the amounts owed under the Note, and Movant believes that the value is approximately \$8.50 a share.

5. Movant has a lien interest in the Collateral, which is not being adequately protected due to the Debtor's continuing failure to make payments to Movant. Cause exists for granting Movant relief from the automatic stay, including the lack of adequate protection for Movant's interest in the Property pursuant to 11 U.S.C. § 362(d)(1).

6. The Debtor has no equity in the Collateral, and Movant alleges that the Collateral is burdensome and of inconsequential value to the Bankruptcy Estate and that Movant is entitled to have the Trustee abandon his interest in the Collateral pursuant to 11 U.S.C. § 554(b).

7. Movant is entitled to relief from the stay of 11 U.S.C. § 362 because Movant is not receiving payment of its debt, and Movant's lien interest will be irreparably harmed by the continuation of such stay. Movant requests a surrender of the Collateral to it, so that it can exercise its lien creditor rights as to the Collateral pursuant to applicable state law.

8. Movant additionally requests that the provisions of Fed. R. Bankr. P. 4001(a)(3) be waived and that Movant be allowed to immediately enforce any Order entered granting it relief from the stay.

WHEREFORE, Movant requests the entry of an Order granting Movant relief from the automatic stay provisions of 11 U.S.C. § 362 and abandonment pursuant to 11 U.S.C. § 554(b) to permit Movant to proceed with the enforcement of its judgment lien interest in the Property pursuant to applicable state law, and for such other and further relief to which Movant may be justly entitled.

Respectfully submitted,

BONE McALLESTER NORTON PLLC

/s/ David M. Anthony
David M. Anthony (TN Reg. No. 19951)
Nashville City Center
511 Union Street, Suite 1600
Nashville, Tennessee 37219-1778
(615) 238-6321
(615) 687-5599 (facsimile)
danthony@bonelaw.com
Attorneys for Movant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been served via electronic mail/ECF and/or United States Mail, first class, postage prepaid to the following persons:

Dainon Tarquinius Sidney
605 Lakemeade Pt.
Old Hickory, TN 37138-2588

Edgar M. Rothschild, III
Mary Elizabeth Ausbrooks
Rothschild & Ausbrooks
1222 16th Avenue South, Suite 12
Nashville, TN 37212-2926

Henry Edward Hildebrand, III
P.O. Box 190664
Nashville, TN 37219-0664

U.S. Trustee
701 Broadway, Suite 318
Nashville, TN 37203

this 2nd day of September, 2011.

/s/ David M. Anthony
David M. Anthony